

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

WP(C).No. 19284 of 2007(U)

PETITIONER:

M.A.NAZAR, AGED 50 YEARS,
S/O.ABDUL KHADER, "MANADATH" DESOM,
ALUVA-683 103.

BY ADV. SRI.P.B.SAHASRANAMAN
SRI.K.JAGADEESH
SRI.T.S.HARIKUMAR

RESPONDENTS:

CHENGAMANAD GRAMA PANCHAYAT ,
REPRESENTED BY ITS SECRETARY, OFFICE OF THE
CHENGAMANAD GRAMA PANCHAYAT, PUTHUVASSERY,
NEDUMBASSERY P.O., ERNAKULAM.

BY ADV. SRI.C.M.SURESH BABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WPC. 19284/2007.

APPENDIX

PETITIONER'S EXTS:

EXT. P1 : TRUE PHOTOSTAT COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE RESPONDENT DATED 2.3.2007.

EXT. P2 : TRUE PHOTOSTAT COPY OF THE NOTICE ISSUED BY THE RESPONDENT DATED 13.6.2007.

EXT. P3 : TRUE PHOTOSTAT COPY OF THE REPLY GIVEN BY THE PETITIONER TO THE RESPONDENT, DATED 14.6.2007.

EXT. P4 : TRUE PHOTOSTAT COPY OF THE PLAN OF THE BUILDING PREPARED BY THE PETITIONER SUBMITTED BEFORE THE RESPONDENT.

RESPONDENTS' EXTS:

EXT. R1 : TRUE COPY OF THE LETTER NO.NHA1/APD&M(T)/TSR-KL/NH47/T-A/LA/2007/250 DATED 20.2.2007.

K.M.JOSEPH, J.

WP.(C) No. 19284 of 2007

Dated this the 26th day of July, 2007

JUDGMENT

Petitioner challenges Ext.P2. Ext.P2 is a stop memo issued by the respondent Panchayat alleging violation of Section 220(b) of the Panchayat Raj Act. According to the petitioner, the petitioner is only putting up a slab for entering into the building and cannot be treated as a structure. He also submits that there are several other buildings constructed in violation of the provisions of Section 220(b). According to him the land lies in a lower level from the National Highway and that the building is constructed after leaving more than six meters as contemplated by the provisions. Petitioner has already filed Ext.P3.

2. I heard learned counsel for the petitioner and the learned counsel for the respondent Panchayat.

3. I feel that in the facts of this case, since Ext.P2 is a stop memo issued by the respondent Panchayat, there should be a direction to the Panchayat to hear the petitioner, consider his objections to the stop memo and then take a decision.

Accordingly the writ petition is disposed of as follows:

The petitioner will be present, either in person or through his representative in the office of the respondent Panchayat at 11 a.m on 31.7.2007. The Secretary of the Panchayat will hear the petitioner or his representative and then take a decision in accordance with law within a period of one week thereafter. The Secretary will certainly consider all the contentions of the petitioner including whether the petitioner is entitled to the benefit of the proviso to Section 220(b). I make it clear that I have not continued the interim order.

(K.M. JOSEPH, JUDGE)

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